

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 09-47844
ADV No. 09-_____

Donna Jo Spangler,

Debtor.

Randall L. Seaver, Trustee,

Plaintiff,

vs.

COMPLAINT

Todd A. Spangler and Donna Jo Spangler,

Defendants.

Randall L. Seaver, Trustee ("Trustee") of the Bankruptcy Estate of Donna Jo Spangler ("Debtor") as and for his Complaint against Defendants Todd A. Spangler and Donna Jo Spangler ("Defendants"), states and alleges as follows:

1. Trustee is the duly appointed Chapter 7 Trustee of the bankruptcy estate of the Debtor.
2. This bankruptcy case was commenced on November 19, 2009 by the filing of a voluntary Chapter 7 petition.
3. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2) and 1334. This proceeding arises under 11 U.S.C. §§ 547 and 550.

COUNT ONE: 11 U.S.C. §547

4. The Trustee realleges the foregoing paragraphs of this Complaint.

5. That Defendant Todd A. Spangler is the brother of the Debtor.

6. That Defendant Todd A. Spangler had loaned the debtor monies at various times prior to 2009, and was owed \$19,000 by the Debtor in October, 2009.

7. That on or about October 15, 2009, which is within a year of the Debtor's filing, Debtor transferred a security interest in her 2006 Hummer, VIN # SGTDN136068213588, to the Defendant Todd A. Spangler.

8. A copy of the certificate of title recording the Defendant's security interest in the 2006 Hummer, VIN # SGTDN136068213588, is attached as Exhibit A.

9. That said transfer was made while the Debtor was insolvent, and will enable Defendant Todd A. Spangler to recover more than he would receive as a creditor if: (a) the bankruptcy case was a case under chapter 7 of title 11, United States Code; (b) the transfer had not been made; and (c) the Defendant received payment of his debt to the extent provided by the provisions of said title 11.

10. The transfer of the 2006 Hummer, VIN # SGTDN136068213588, is avoidable pursuant to 11 U.S.C. §547. The transfer was not a contemporaneous exchange. *Bergquist v. Fidelity Mortgage Decisions Corporation (In re Alexander)* 219 B.R. 255 (Bankr.D.Minn.1998).

11. The Trustee may avoid and recover said transfer pursuant to 11 U.S.C. § 547 and § 550, with the transfer preserved for the estate pursuant to 11 U.S.C. § 551.

WHEREFORE, the Trustee requests judgment of the court as follows:

1. Avoiding the above transfer of a \$19,000 security interest in the 2006 Hummer, VIN # SGTDN136068213588, to the Defendant and preserving the transfer for the benefit of the bankruptcy estate; and

2. Entering judgment against the Defendant for the value of the transfer, \$19,000.00; and

3. Awarding the Plaintiff his costs and disbursements in this action; and

4. Entering an Order requiring the Debtor to turn over the Hummer to the Trustee within seven (7) days of the Order being entered; and
5. Such other and further relief as the court deems just and equitable.

FULLER, SEAVER & RAMETTE, P.A.

Dated: January 8, 2010

By: /e/ Matthew D. Swanson
Matthew D. Swanson 390271
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Plaintiff

STATE OF MINNESOTA
CERTIFICATE OF TITLE FOR A MOTOR VEHICLE

VEHICLE IDENTIFICATION NUMBER SGTDN136068213588	YEAR 06	MAKE HUMM	MODEL/BODY 4W HUM	TITLE NUMBER 61030Y170
DATE ISSUED 04/13/09	ODOMETER 23	TAX BASE 029500	CODE 09	PLATE NUMBER 629AXV
EXP 03				CENTRAL OFFICE USE ONLY

NO SECURITY INTERESTS

DOB
00269

OWNER
SPANGLER DONNA JO

PAID
OCT 22 2009

1100 W 82ND ST
BLOOMINGTON MN 55420-2140

Deputy 140

ASSIGNMENT BY SELLER (TRANSFEROR)

FEDERAL AND STATE LAWS REQUIRE THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. MINNESOTA LAW REQUIRES THAT YOU MAKE A DISCLOSURE ABOUT DAMAGE TO THE VEHICLE. A FALSE OR FRAUDULENT STATEMENT OF PURCHASE BY ANY PERSON IS A GROSS MISDEMEANOR OR FELONY.

ODOMETER DISCLOSURE STATEMENT. I (WE) CERTIFY THAT THE ODOMETER NOW
READS (NO TENTHS) MILES AND TO THE BEST OF MY
KNOWLEDGE THE ODOMETER MILEAGE:
☐ IS ACTUAL MILEAGE
☐ EXCEEDS MECHANICAL LIMITS OF ODOMETER
☐ IS NOT ACTUAL MILEAGE - WARNING ODOMETER DISCREPANCY

DAMAGE DISCLOSURE STATEMENT. TO THE BEST OF MY KNOWLEDGE, THIS VEHICLE:
REPLACE; OR REINSTALL AIR BAGS AND OTHER COMPONENTS THAT WERE REPLACED DUE TO DEPLOYMENT OF AIR BAGS, IN EXCESS OF 70 PERCENT ACTUAL CASH VALUE.
☐ HAS ☐ HAS NOT (CHECK ONE) SUSTAINED DAMAGE, EXCLUSIVE OF ANY COSTS TO REPAIR.

ASSIGNMENT: I (WE) CERTIFY THAT THIS VEHICLE IS FREE FROM ALL SECURITY INTERESTS, WARRANT TITLE, AND ASSIGN THE REGISTRATION TAX AND VEHICLE TO

SELLER'S PRINTED NAME(S)	DATE OF SALE	BUYER'S PRINTED NAME(S)
SELLER'S ADDRESS	DEALER'S LICENSE #	BUYER'S ADDRESS
SELLER'S SIGNATURE(S)	X	BUYER'S SIGNATURE(S)

APPLICATION FOR TITLE BY BUYER (TRANSFeree). MUST BE SUBMITTED WITHIN 10 DAYS (Please Print)

BUYER'S NAME (LAST)	BUYER'S NAME (FIRST)	BUYER'S NAME (MIDDLE)	DATE(S) OF BIRTH	BUYER'S DRIVER'S LICENSE NUMBER(S)
APPL BUYER'S NAME(S) (LAST)	APPL BUYER'S NAME(S) (FIRST)	APPL BUYER'S NAME(S) (MIDDLE)	DATE(S) OF BIRTH	APPL BUYER'S DRIVER'S LICENSE NUMBER(S)
STREET ADDRESS	CITY	COUNTY/CODE	STATE	ZIP CODE

IS THIS VEHICLE SUBJECT TO SECURITY AGREEMENT(S)? ☐ NO ☒ YES (IF YES, COMPLETE SECTION BELOW)

FIRST SECURED PARTY'S NAME (PRINT NAME)	DATE OF SECURITY AGREEMENT	FOR ADDITIONAL SECURED PARTIES ATTACH COMPLETED FORM PS2017
1998 Sherburne Ave	10-15-09	SS104
STREET ADDRESS	CITY	STATE
St. Paul	MN	

I (WE) CERTIFY I AM (ARE) OF LEGAL AGE, HAVE PURCHASED THIS VEHICLE SUBJECT TO LIENS SHOWN AND NO OTHERS. I (WE) ATTEST BY THIS TRANSACTION THAT THIS VEHICLE IS AND WILL CONTINUE TO BE INSURED UNLESS OPERATED UPON THE PUBLIC STREETS AND HIGHWAYS. ALL OF MY (OUR) DECLARATIONS ARE TRUE AND CORRECT.

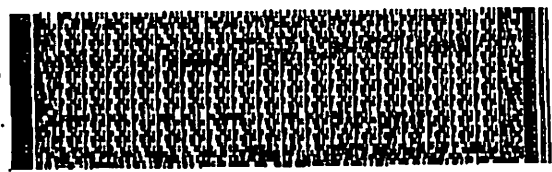
APPLICANT'S/BUYER'S SIGNATURE(S) All Must Sign

REPORTING A PLAIN READ: ALL INFORMATION COLLECTED ON A MINNESOTA APPLICATION IS REQUIRED BY LAW AND IS USED TO IDENTIFY YOUR MOTOR VEHICLE. FAILURE TO PROVIDE REQUIRED INFORMATION MAY RESULT IN DENIAL OF THE APPLICATION. EXCEPT FOR CERTAIN LIMITS PERMITTED BY FEDERAL AND STATE LAWS, PERSONAL INFORMATION CONTAINED IN YOUR APPLICATION MAY NOT BE DISCLOSED TO ANYONE WITHOUT YOUR EXPRESS CONSENT. YOU MAY EXPRESSLY CONSENT TO THE DISCLOSURE OF YOUR INFORMATION BY WRITING TO THE FOLLOWING ADDRESS:

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION
445 MINNESOTA STREET, ST. PAUL, MINNESOTA 55101
PHONE 651-297-2126 TTY 651-282-8555



PS2700-17



KEEP IN A SAFE PLACE ANY ALTERATION OR ERASURE VOIDS THIS TITLE

SELLER'S NOTICE OF SALE

When you sell this vehicle, you are responsible to file the information on the back side of this notice with the Department of Public Safety within 10 days. Please file this information over the Internet at mdvinfo.org, call 651-294-1234, or complete all the information on this notice and mail to the address below. This notice is not required if sold to a licensed dealer. Minnesota statute 168A.10

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION
445 MINNESOTA STREET, ST. PAUL, MINNESOTA 55101-8168

TITLE NUMBER 61030Y170

VIN 5GTDN136068213588

MINNESOTA MOTOR VEHICLE REGISTRATION

YR MK NDL VIN
06 HUMM 4W HUM 5GTDN136068213588
PLATE * STICKER * TAX EXP
629AXV K075217 99.00 03/31/10
GROSS VEHICLE WEIGHT/BASE VALUE 029500
RECORDED OWNER(S)
SPANGLER DONNA JO

1100 W 82ND ST
BLOOMINGTON MN 55420-2140

EXHIBIT A